

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**WESTBROOK MONSTER MIX
COMPANY, LLC, ET AL.**

v.

EASY GARDENER PRODUCTS, INC.

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CIVIL ACTION NO. 23-2952

ORDER

This 27th day of February, 2024, having reviewed the record, it is hereby **ORDERED** that Defendant's Motion to Dismiss (ECF 17) is **GRANTED in part** and **DENIED in part** as follows:

1. As to Declaratory Judgment (Count II), the motion is **GRANTED**.
2. As to Plaintiff's allegations of Fraud (Count III), the motion is **GRANTED** under the theory of good faith and fair dealing and **DENIED in part** as to allegations of fraud based on Defendant's January 13, 2021, November 16, 2021 (relating to contacting every person), and January 9, 2022, statements.
3. As to claims under the Lanham Act (Count IV), the motion is **DENIED**.

/s/ Gerald Austin McHugh
United States District Judge